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April 14, 2007

PUBLIC UTILITIES
COMMISSION

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Ms. Benedyne E. Stone
General Counsel
Public Utilities Commission
State of Hawaii
465 South King Street
Honolulu, Hawaii 96813

Re: Docket Number 05-0315
Hawaii Electric Light Company, Inc.
Rate Increase Application

Dear Ms. Stone:

I am writing on behalf of the Keahole Defense Coalition as its attorney to follow up on my recent inquiry on the consuming public's opportunity to offer testimony on matters relating to Hawaii Electric Light Company, Inc.'s application

Section 269-16(b), HRS states that the Public Utilities Commission must hold a "contested case *hearing*," i.e., an agency evidentiary hearing. Further, that agency evidentiary hearing must be "preceded by a public *hearing*" at which consumers may present testimony to the Public Utilities Commission "concerning the increase."

The recent stipulation dated April 11, 2007 between Hawaii Electric Light Company, Inc. and the Division of Consumer Advocacy purport to "cancel" the evidentiary hearing. Although the stipulating parties acknowledge the Public Utilities Commission's authority and statutory obligation to examine witnesses, the stipulating parties appear to ignore the mandates of Section 269-19(b), HRS.

The Keahole Defense Coalition submits the following questions. First, when will the Public Utilities Commission hold the "contested case *hearing*" that is mandated by Section 269-16(b), HRS? Second, when will

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the consumers be afforded the "public *hearing*" mandated by Section 269-16(b), HRS?

Due to the importance of this matter, I would appreciate your soonest reply. You may contact me or Mr. Keichi Ikeda, President of the Keahole Defense Coalition at 325-1489. Thank you.

Yours truly,

A handwritten signature in black ink, appearing to read "M. Matsukawa", written over the typed name.

Michael J. Matsukawa

ENC: Hearing Summary
Section 269-16, HRS

c: Catherine P. Awakuni
Division of Consumer Advocacy

Thomas W. Williams
Peter Y. Kikuta
Attorneys for the Applicant

HEARING PROVISIONS CONTAINED IN SECTION 269-16, HRS

269-16(a)

(a) To the extent the contested case proceedings referred to in chapter 91¹ are required in any rate proceeding² to ensure fairness and to provide due process to parties³ that may be affected by rates approved by the commission, the evidentiary hearings⁴ shall be conducted expeditiously and shall be conducted as a part of the ratemaking proceeding.

¹ The term "contested case" is a highly specialized term in administrative law. It is a proceeding in which the legal rights, duties or privileges of specific parties are determined and where such determination is required to be made after an opportunity for an agency hearing. The characteristics or components of a "contested case" include (1) an opportunity for a hearing, (2) reasonable notice of proceedings, (3) an opportunity to present evidence, (4) an opportunity to present argument, Sections 91-9(a), (b) and (c), HRS, (5) the right to conduct cross-examination, Section 91-10(3), HRS, (6) the right to have the agency render written findings of fact and conclusions of law on the relevant issues, (7) the right to a ruling on a party's proposed findings of fact, Section 91-12, HRS, and (8) judicial review, Section 91-14, HRS.

² Subsection (b) states that such a proceeding is required in a rate case.

³ It is not clear whether the reference to "parties" is limited to those persons or entities that are formally admitted as parties in the "contested case" proceeding.

⁴ The evidentiary hearing portion of a "contested case" is one of the components of a "contested case."

269-16(b)

(b) A contested case hearing⁵ shall be held in connection with any increase in rates, and the hearing⁶ shall be preceded by a public hearing as prescribed in section 269-12,⁷ at which the consumers or patrons of the public utility may present testimony to the commission concerning the increase. The commission, upon notice to the public utility, may ... (2) [a]fter a hearing,⁸ by order ... [r]egulate, fix, and change all such rates ... so that the same shall be just and reasonable.

⁵ The term “contested case hearing” is not defined. However, since one of the components of a “contested case” is the opportunity for a “hearing” to take evidence and argument, the term “contested case hearing” refers to the evidence/argument-taking hearing portion of a “contested case.”

⁶ I.e., the evidentiary hearing portion of a “contested case.” *See* footnote 5.

⁷ Section 296-12, HRS only describes the form of the public hearing notice.

⁸ *See* footnote 5.